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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,414	09/29/2003	David Storek	06730.0027.NPUS01	2413
28694	7590	11/16/2005	EXAMINER	
NOVAK DRUCE & QUIGG, LLP			HOEL, MATTHEW D	
1300 EYE STREET NW			ART UNIT	PAPER NUMBER
400 EAST TOWER				
WASHINGTON, DC 20005			3713	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/605,414	STOREK, DAVID	
	Examiner	Art Unit	
	Matthew D. Hoel	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 September 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-3 is/are rejected.
 7) Claim(s) 1 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 29 September 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12-29-03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: Claim 1 cites an “arrangement” as instead of properly citing a “system,” a “device,” or an “apparatus.” The examiner agrees that the claim is directed toward a concrete, tangible, and useful result, but the language is unclear and confusing. An arrangement could be a method or a process. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

3. A person shall be entitled to a patent unless –

4. (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 to 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Tuer, et al. (U.S. patent application publication 2002/0077189 A1, application 10/016,965).

6. As to Claim 1: Tuer in ‘189 teaches an arrangement for detecting movement parameters in a moving object (Abstract). These parameters include acceleration (linear accelerometers, Para. 24) and angular velocity (angular motion sensors, Para. 10). This arrangement comprises an INS (inertial navigation system, Para. 11). ‘189 includes at least one gyroscope (rate gyro sensor, Para. 11) and at least one

accelerometer (Para. 24). '189 measures acceleration and angular velocity (Para. 24).

'189 also measures the effect of gravity on the moving object (Claim 7).

7. As to Claim 2: '189 teaches a system for detecting and analyzing motion data including acceleration and angular velocity (Abstract, Para. 24). The arrangement of '189 is an inertial navigation system (Para. 11). '189 includes at least one gyroscope (rate gyro sensor, Para. 11) and at least one accelerometer (Para. 24). '189 measures acceleration and angular velocity (Para. 24). '189 also measures the effect of gravity on the equipment or moving object (Claim 7). '189 has a computer comprising a microcontroller (Para. 27). The microcontroller communicates with the inertial navigation system, receives data from it, and compensates for the effect of gravity by driving actuators (Para. 27, Claim 7).

8. As to Claim 3: '189 teaches a golf club (Fig. 1) with an arrangement for detecting movement parameters (Abstract). The arrangement is an inertial navigation system (Para. 11). The arrangement includes a number of sensors for detecting acceleration, angular velocity, and the effect of gravity on the club (Para. 10, 11, and 24; Claim 7).

Citation of Pertinent Prior Art

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In U.S. patent 6,441,745 B1, Gates teaches a club swing monitor. In U.S. patent application publications 2001/0005695 A1, 2002/0107085 A1, and 2001/0053720 A1; U.S. patents 6,402,634 B1 and 6,224,493 B1; and WIPO patent application publication WO 00/69528 (PCT/US00/12790), Lee, et al., teach an

instrumented golf club. In U.S. patent 6,196,932 B1, Marsh teaches an instrumented sports apparatus. In U.S. patent application publication 2002/0052246 A1 and U.S. patent 6,413,167 B1, Burke teaches a golf overswing alerting system. In U.S. patent 5,792,001 A, Henwood teaches a putting stroke training device. In U.S. patent 5,779,555 A, Nomura, et al., teach swing-type athletic equipment. In U.S. patent 6,173,610 B1, Pace teaches a sports swing impact speed indicator.

Conclusion

10. The examiner noticed that the applicant has 54 “exemplary” claims in the specification, but the “Claims” section of the application has only three claims. The specification states in part: “The quantifications of the invention(s) disclosed herein, as well as the protection being sought therefore, in terms of scope and breadth, can be characterized in a plurality of ways. Examples are included below in the following exemplary claim sets.” The specification goes on to list 54 “exemplary” claims, which were not examined (or paid for), as they were not explicitly claimed. The three claims that were explicitly claimed and paid for were examined. The examiner also noticed 52 claims in the provisional specification and the foreign priority application. It appears that the applicant intends to claim more material at a later date. The applicant is reminded that if he wants the full benefit of the specification, he must claim for patent protection every feature enabled by the specification that he considers essential to his invention. Expanding the scope of the claims by amendment after the first office action will require a new determination of anticipation and obviousness, as well as a new prior art search,

and will be grounds for a final rejection on the next office action. Please see MPEP 706.07 and form paragraph 7-40.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Höel whose telephone number is (571) 272-5961. The examiner can normally be reached on Mon. to Fri., 8:00 A.M. to 4:30 P.M.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Matthew D. Höel, Patent Examiner
AU 3713



XUAN M. THAI
SUPERVISORY PATENT EXAMINER

TC3700